

RECEIVED  
CENTRAL FAX CENTER

JUL 11 2007

## REMARKS

In the Office Action dated April 16, 2007, the Examiner rejected claim 29 as being anticipated by U.S. Patent No. 6,192,223 to Barnett ("Barnett '223"). The Examiner rejected claims 1-4, 6-13, 15-17, 19-21, 23-25, 27-30, 32-34, 36-41 and 43-52 as being anticipated by U.S. Patent Publication 2001/0006892 in the name of Barnett ("Barnett '892"). The Examiner rejected claim 18, 26, 26, 35 and 42 as being unpatentable over Barnett '892 in view of U.S. Patent No. 6,282,412 to Lyons ("Lyons"). The Examiner rejected claims 1, 10, 21, 38 and 52 as being unpatentable over Barnett '223 in view of European Patent No. EP 0964514 A1 ("McClellan").

Rejection of Claim 29 under 35 USC 102(e):

The Examiner asserts that claim 29 is anticipated by Barnett '223. In support of this rejection, the Examiner asserts that Barnett '223 teaches a "cellular network based position locator circuit" that identifies the location of the receiver. The Examiner asserts that this is taught by Barnett '223 at Column 4, lines 24-29, Column 4, lines 35-38 and Column 5, lines 47-49. Upon a review of these portions of Barnett '223, Applicant respectfully submits that these portions of Barnett '223 teach no such thing.

The Examiner asserts that Column 4, lines 24-29 of Barnett '223 teach a "cellular network based position locator circuit" that identifies the location of the receiver. This portion of Barnett '223 reads as follows:

However, the present invention is not limited to using geographic information to assemble frequency data. Any information that enables the host system to assemble operating frequencies of interest for a listener is within the scope of the invention. The host system 4 also includes a communication device, such as a modem, for communicating with the frequency scanning radio receiver 2.

The Examiner also asserts that Column 4, lines 35-38 of Barnett '223 teach a "cellular network based position locator circuit" that identifies the location of the receiver. This portion of Barnett '223 reads as follows:

In an alternative embodiment, the host system 4 and the frequency scanning radio receiver 2 may communicate using a wireless medium, such as a mobile telephone, pager network, and/or satellite network.

Finally, the Examiner asserts that Column 5, lines 47-49 of Barnett '223 teach a "cellular network based position locator circuit" that identifies the location of the receiver. This portion of Barnett '223 reads as follows:

The host system uses the postal code in a programming request to identify the geographic location of a frequency scanning radio receiver and to extract frequency and licensee, i.e., user, information from the frequency allocation database.

Applicant respectfully submits that none of the above portions of Barnett '223 teach or suggest a "cellular network based position locator circuit" that identifies the location of the receiver. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Rejection of Claims under 35 USC 102(e) based on Barnett '892:

The Examiner has again rejected claims 1-4, 6-13, 15-17, 19-21, 23-25, 27-30, 32-34, 36-41 and 43-52 as being anticipated by Barnett '892. Applicant has previously presented the Examiner with evidence showing that the invention as claimed was conceived prior to the filing date of the Barnett '892 reference and that Applicant exercised reasonable diligence toward the filing of a patent application on such invention.

Conception and Diligence:

Applicant strenuously objects to the Examiner's position as to Applicant's submissions showing early conception of the invention and diligence toward reducing the invention to practice. Applicant's position as to these matters has been set forth in detail in Applicant's prior correspondence, and Applicant will not repeat them in full here. Applicant again respectfully submits that, for all the reasons set forth in Applicant's prior responses, the evidence submitted by Applicant to show conception and diligence were more than sufficient for that showing. Accordingly, Applicant maintains that Barnett '892 is not prior art to any of the pending claims.

Patentability over Barnett '892:

The Examiner asserts that the invention as claimed is disclosed within the Barnett '892 reference, but this is not correct for a number of reasons. As an example, the Examiner

asserts that Barnett '892 teaches the use of a cellular-network based "position locator circuit". The Examiner asserts that this is taught at paragraph [0039] and paragraph [0110]. Paragraph [0039] reads as follows:

[0039] The communication medium 6 comprises any medium suitable for transferring data between the host system 4 and the frequency scanning radio receiver 2. For example, if the host system 4 and a frequency scanning radio receiver 2 each include a modem, the communication medium may comprise a telephone network. In an alternative embodiment, the host system 4 and the frequency scanning radio receiver 2 may communicate using a wireless medium, such as a mobile telephone, pager network, and/or satellite network. In another alternative, the host system 4 and the frequency scanning radio receiver 2 may communicate using a combination of different media. For example, a programming information request may be sent by a telephone network and the frequency data may be received by the same receiver or part of the same receiver that is used to monitor radio frequency transmissions, i.e., the frequency scanning receiver.

It can be readily seen that there is nothing in this paragraph teaching a cellular-network based "position locator circuit." This paragraph teaches the use of a cellular network for communication, but does not teach or suggest that the cellular network may be used for location of the scanner.

The Examiner also asserts that this teaching may be found at paragraph [0110]. This portion of Barnett '892 reads as follows:

[0110] The novel frequency scanning radio receivers 200, 201, 210, and 211 may be hand-held, portable units or may be mobile units that are mounted on a mobile platform, such as an automobile or truck or other platform, including even a ship or an airplane. Because of the presence of the GPS receiver 202 as a first communication device, it is unnecessary for the user of the frequency scanning radio receiver to determine or even input the location of the receiver. Rather, the location is determined by the GPS receiver 202. Determination of the

position of the receiver may be either manually controlled or automatic.

As above, it can be readily seen that there is nothing in this paragraph teaching a cellular-network based "position locator circuit." This paragraph teaches the use of a cellular network for communication, but does not teach or suggest that the cellular network may be used for location of the scanner.

Accordingly, the Examiner's assertion that the Barnett '892 reference anticipates the claims can not be supported based upon these cited portions. These are only typical, and are by no means the only examples of citations which fail to teach the limitations against which they are cited. The same applies to many of the portions cited against the pending claims. Accordingly, the Examiner has failed to present a proper case of anticipation against the pending claims and Applicant respectfully requests that the Examiner withdraw such rejections.

Rejections under 35 USC 103:

The Examiner rejected claim 18, 26, 26, 35 and 42 as being unpatentable over Barnett '892 in view of Lyons. The Examiner rejected claims 1, 10, 21, 38 and 52 as being unpatentable over Barnett '223 in view of McClellan.

The Examiner has failed to present a prima facie case of obviousness of any of the above combinations. As set forth above, the Examiner has failed to properly identify where the recited limitations may be found within the cited references. Further, the

Examiner has not set forth any motivation to combine the references in the manner suggested, nor has the Examiner set forth any expectation of success of the combination in the event that the references were to be combined in the manner suggested. Accordingly, the Examiner has failed to set forth a prima facie case of any of the above, and Applicant respectfully submits that the Examiner withdraw these rejections.

New Claim 53:

Applicant has added new claim 53. Applicant respectfully submits that claim 53 recites verbatim in claim form the combination listed in the Arthur Tsubaki's notebook entry dated February 1, 2001. Even in the event that the Examiner persists in his position that claims 1-52 are not supported by Mr. Tsubaki's notebook entry of February 1, there can be no question that claim 53 is supported by this entry. Accordingly, Applicant respectfully requests that the Examiner allow claim 53 as being fully supported by the evidence submitted to show conception in the mind of the inventor at least as early at February 1, 2001.

**Fee Statement**

Compared to the original filing, the number of independent claims has been increased by 1 claim and the total number of claims has been reduced. Accordingly, the Applicant has submitted herewith a form PTO-2038 in the amount of \$200.00 in the payment of one additional independent claim. Applicant respectfully submits

JUL 11 2007

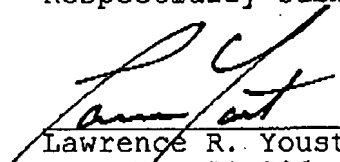
that no other fees are due in connection with this filing. If this is incorrect, please charge any underpayment or credit any overpayment to deposit account 03-1130.

**Conclusion**

As set forth in detail above, the claims define patentable subject matter over the art cited in the prior prosecution, and a Notice of Allowance is therefore respectfully requested. The Examiner is encouraged to call the undersigned for any reason which may advance the present case to issuance.

Dated this 11th day of July, 2007.

Respectfully submitted:

  
\_\_\_\_\_  
Lawrence R. Youst  
Reg. No. 38,795  
Danamraj & Youst, P.C.  
Premier Place, Suite 1450  
5910 North Central Expressway  
Dallas, Texas 75206  
Tel 214-750-5666  
Fax 214-363-8177